

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
HATTIESBURG DIVISION

NINA DEL RIO, ET AL

VS.

CIVIL ACTION NO. 2:03cv301-KS-MTP

AMERICAN HOME PRODUCTS
CORPORATION, ET AL

ORDER

This cause is before the Court on [137] Motion to Dismiss filed by Eli Lilly and Company (“Lilly”) requesting this Court to dismiss this action pursuant to Rule 12(b)(6) and/or 12(c) of the Federal Rules of Civil Procedure and the Court considered the motion, and on the 19th day of June, 2006, entered an order granting plaintiffs twenty (20) additional days to respond and to furnish the information described in the order and come into compliance with the requirements of *Harold’s Auto Parts, Inc., v. Mangalardi*, 889 So. 2d 493 (Miss. 2004).

On July 14, 2006, Plaintiffs responded with various information regarding the Plaintiffs herein. The Responses were in the form of Plaintiffs’ vaccination records from county health departments, etc. Following Plaintiffs’ Response this Court held a status conference, and on July 21, 2006, entered an order granting Plaintiffs ten (10) additional days to request and receive information from Lilly regarding sales of Thimerosal to various vaccine manufacturers, and further granted an additional fifty (50) days to Plaintiffs to conduct discovery for the purpose of complying with this Court’s previous order and furnishing the information required by *Mangalardi* as additionally clarified in *3M Company v. Glass*, 917 So. 2d 90 (Miss. 2005).

This Court finds that the Plaintiffs have failed to amend their previously filed Responses

and comply with the case law above referenced and finds that the Motion to Dismiss should be **sustained** and this cause of action dismissed without prejudice.

NOW, THEREFORE, IT IS HEREBY ORDERED AND ADJUDGED that the Complaint filed herein be and the same is hereby dismissed without prejudice.

All pending motions are dismissed as moot.

SO ORDERED AND ADJUDGED on this, the 26th day of September, 2006.

s/ *Keith Starrett*
UNITED STATES DISTRICT JUDGE